

### REMARKS

There are now pending in this application Claims 19-25, of which Claims 19 and 24 are independent. Claims 1-9, 12-16, and 18 have been cancelled without prejudice or waiver of their subject matter. No claims have been added.

In view of the above amendment and the following remarks, favorable reconsideration together with entry of those amendments and allowance of the above application are respectfully sought.

Applicants submit herewith an amended abstract in accordance with the Examiner's requirements. It is respectfully submitted that the new abstract is in proper form and is directed to Applicants' invention as featured in the pending claims. Favorable consideration and entry of that abstract is respectfully sought.

Claims 19-25 stand rejected under 35 U.S.C. § 103(a), as being unpatentable Murooka, et al. The rejection is respectfully traversed.

On November 12, 2003, Applicants filed a sworn translation of the sole priority document in the above-identified application, establishing entitlement to a March 12, 2001 priority filing date. As such, Murooka, et al. no longer qualifies as prior art under 35 U.S.C. § 102(a), and qualifies only as prior art under 35 U.S.C. § 102(e). However, since Applicants also filed at the same time evidence establishing common ownership of the present application and Murooka, et al. in the manner required by 35 U.S.C. § 103(c) and, as Murooka, et al. is not applicable prior art against the claims of the present application for purposes of obviousness under 35 U.S.C. § 103(a).

Accordingly, the rejection of Claims 19-25 under 35 U.S.C. § 103(a), as being unpatentable over Murooka, et al. has been addressed and overcome.

Claims 19-25 also were rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 5, 6, 11, 12, or 16 of Murooka, et al. That rejection is respectfully traversed.

Applicants' invention as now featured in each of independent Claims 19 and 24 is characterized in its use of a metallic substrate of a heater that is fixed so as not to rotate with respect to an apparatus, wherein the metallic substrate has a cylindrical shape, and wherein the heater has a first insulating layer on an outer peripheral surface of the metallic substrate, a heat generating resistor on the first insulating layer and a second insulating layer on the heat generating resistor.

By use of the above combination of features, the smooth movement of a film is ensured as the nip is shaped into an arc. In addition, the non-rotatable cylindrical metallic substrate is used as a heater substrate so that the rigidity of the heater is improved. Therefore, in order to form the nip between the heater and the backup roller, the heater as such can be pressurized to enable and therefore enable simplification of the structure of the apparatus.

Murooka, et al. features an image heating apparatus which does include a metal substrate heater. Murooka, et al. does not claim a metallic substrate having a cylindrical shape or the first insulating layer being provided on an outer peripheral surface of that cylindrical shaped metallic substrate. Indeed, while the claims of Murooka, et al. feature an electrically insulating layer disposed on a substrate together with a heat generating layer disposed on that electrically insulating layer and a protective layer disposed on the heat generating layer, they fail to set forth

the clearly distinguishing features of Applicants' invention as now set forth in each of Claims 19 and 24. Thus, none of those claims of Murooka, et al. recite that the metallic substrate has a cylindrical shape or that the insulating layer is placed on an outer peripheral surface of that cylindrically-shaped metallic substrate. Accordingly, Murooka, et al. fails to teach or suggest these salient features of the invention.


Applicants respectfully submit that Claims 19-25 are not obvious in view of any of Claims 5, 6, 11, 12, or 16 of Murooka, et al.

The remaining claims in the above application not heretofore discussed are dependent claims which depend either directly or indirectly from Claim 19 or 24. Accordingly, each of those claims is patentable over the claims of Murooka, et al. for reasons noted above with respect to those claims. In addition, each recite features of the invention still further distinguishing it from the applied art. Favorable and independent consideration thereof is respectfully sought.

Applicants respectfully submit that all outstanding matters in the above application have been addressed and that this application is in condition for allowance. Favorable reconsideration and early passage to issue of the above application are respectfully sought.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 530-1010. All correspondence should continue to be directed to our below listed address.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read 'L. Stahl', is written over a horizontal line.

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